

[Home](#) / Attorney General Platkin, Labor Commissioner Asaro-Angelo Sue Amazon for Exploiting Delivery Workers

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FOR IMMEDIATE RELEASE

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TRENTON – Attorney General Matthew J. Platkin and New Jersey Department of Labor and Workforce Development (NJDOL) Commissioner Robert Asaro-Angelo today sued Amazon and its Amazon Logistics delivery network for misclassifying Flex delivery drivers as independent contractors and unlawfully depriving them of rightful wages, benefits, and a host of other legal rights and protections afforded to employees.

The case also alleges that Amazon, which is valued at more than a trillion dollars, shifted the risk of doing business and those associated expenses to Flex drivers, and, among other things, failed to make required contributions to the Unemployment Compensation Fund and the State Disability Benefits Fund. As a result of these violations, the lawsuit estimates that New Jersey Flex drivers and these funds have suffered millions of dollars in losses each year. As a result, as Amazon flouts the law, other New Jersey employers suffer because they must make up any shortfalls to the trust funds.

Amazon's Flex drivers deliver packages for the e-commerce giant to both commercial and residential locations, using their own vehicles and paying for their own expenses, including gas, insurance, maintenance, and tolls. Amazon advertises Flex as a "flexible" way to make money. While Amazon Flex drivers may have a choice when they work, Amazon exercises significant control over how drivers perform their work, including the time, method, and manner of how deliveries are made.

No matter the label or tax form issued to Flex drivers, this relationship between Amazon and these drivers constitutes employment. This unlawful misclassification of employees as independent contractors deprives them of their rights to the minimum wage, mandated overtime, earned sick leave, and job-protected family leave.

"Let's not make any mistake about this: when a trillion-dollar company says it is providing you with 'a flexible way of earning extra money on your own schedule,' it is not offering this opportunity for your benefit. Amazon is looking out for itself," **said Attorney General Platkin**. "Amazon is taking advantage of Flex drivers and enriching its bottom line by failing to obey our labor laws and offloading its business expenses for the benefit of shareholders."

"Amazon's misclassification of Flex drivers is illegal—plain and simple. We will not allow Amazon to expand its empire by exploiting New Jersey workers and our state's unemployment trust funds," **said Labor Commissioner Asaro-Angelo**. "Flex drivers deserve the dignity and respect of proper classification, ensuring they receive the benefits and rights they are entitled to. Classifying workers correctly is New Jersey law, there are no exceptions, regardless of the company size. We are bringing this action to protect New Jersey's Flex drivers and our entire state."

Thousands of Flex drivers have been working in New Jersey since at least 2017. NJDOL's investigation into Amazon's Flex program began after it received applications from Flex drivers for unemployment and temporary disability benefits. On a case-by-case basis, some Flex drivers were awarded these benefits, even though Amazon has not contributed to the required State funds.

Filed in the Superior Court of Essex County, Law Division, the lawsuit seeks a trial by jury. The lawsuit illustrates some of the ways in which Flex drivers are harmed by Amazon's refusal to follow New Jersey law:

- For example, one driver often works over 40 hours a week driving for Amazon but never receives State-mandated overtime pay at one-and-one-half times their regular rate of pay.
- Another Flex driver injured her back while picking up a package and was unable to work for Amazon for 11 days. She lost income because she does not receive State-mandated sick leave. She resumed driving before she recovered because she could not afford the time off.
- Another driver regularly paid for tolls out of pocket, effectively lowering his pay to below the minimum wage.

In New Jersey, most workers are generally presumed to be employees, rather than independent contractors, unless a business can satisfy all three criteria of what is commonly referred to as the "ABC Test." By statute, N.J. Stat. § 43:21-19(i)(6), businesses must establish that:

"(A) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his contract of service and in fact;

(B) Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(C) Such individual is customarily engaged in an independently established trade, occupation, profession or business."

The details in the complaint illustrate how Amazon will not be able to satisfy the ABC Test, by any measure. For example:

- Drivers must undergo a background check as well as training, which is not paid;
- Drivers do not operate other independent businesses, seeking their own clients;
- Drivers must use Amazon's mobile app to sign up for shifts and receive delivery instructions from Amazon including prescribed delivery routes;
- Drivers must agree to surveillance on the app, installed on their personal phones;
- Amazon closely monitors the time Drivers spend on their deliveries, the order they make them, and how many stops they make along the way;
- Amazon evaluates drivers with "Standings" that affect how much work Amazon assigns them;
- Drivers report to Amazon warehouses or other locations to pick up packages and to return undelivered packages;
- Drivers are unable to negotiate their pay;
- Amazon may choose to provide incentives to drivers; and
- Drivers can be fired from the Flex program without notice.

Furthermore, Amazon caps the number of shifts drivers can sign up for each week, but the company does not restrict the actual hours drivers work, nor does Amazon pay drivers for routes that take longer than anticipated. If a driver needs to complete extra tasks in a day or week to follow Amazon's delivery policies, such as returning undeliverable packages, Amazon does not pay them, even if the company's policies cause the driver to work over 40 hours a week.

Today's complaint alleges several counts of labor law violations:

- Unlawful deduction, diversion, and withholding of wages
- Minimum wage violations
- Failure to pay overtime
- Failure to maintain records of hours and wages
- Failure to make available and pay earned sick leave failure to provide notice and keep records of earned sick leave
- Failure to make required contributions to the New Jersey Unemployment Compensation Fund, Disability Benefits Fund, and Workforce Development Funds
- Misclassification

The lawsuit seeks, among other things, to stop Amazon's ongoing unlawful behavior; obtain wages improperly withheld from Flex drivers; impose fines and penalties; recover unpaid monies and associated penalties and interest due to the State Unemployment Compensation and Temporary Disability and Family Leave Insurance funds; and recover reasonable costs of enforcement, including attorneys' fees.

Under Attorney General Platkin and in conjunction with NJDOL, New Jersey has vigorously fought to protect workers from various forms of worker misclassification, which continues to be a priority for the Murphy Administration. For example, ridesharing companies Lyft and Uber have resolved worker misclassification cases for millions. Attorney General Platkin and NJDOL have also filed lawsuits against trucking firms and construction companies and have settled significant misclassification matters involving [Publishers Circulation Fulfillment](#), a newspaper delivery and distribution company, and [Horseless Carriage Carrier, Inc.](#), a transporter of luxury cars.

In addition, since 2020 when a bipartisan law was signed providing additional tools to deter worker misclassification, NJDOL has assessed penalties to companies found to have misclassified their workers, including a penalty of not more than 5% of misclassified workers' gross earnings over the past twelve months, which goes directly back into workers' pockets. To date, NJDOL has assessed \$11,223,560.61 for 13,567 workers.

The Century Foundation estimates that in 2021, New Jersey taxpayers lost \$329.3 million from worker misclassification, including lost unemployment insurance contributions, Social Security and Medicare contributions, and federal and state income taxes.

NJDOL is represented by the Office of the Attorney General's Division of Law by Deputy Attorneys General Eve E. Weissman and Matthew D. Harm, under the supervision of Assistant Attorneys General Christina Brandt-Young and Mayur P. Saxena and Deputy Director Sara Gregory.

If you have performed any work for Amazon Flex in New Jersey or if you have any other information concerning the lawsuit, [please fill out this form](#).

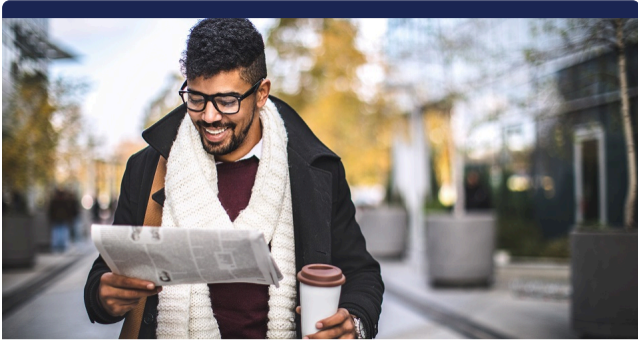
If you work in New Jersey and believe that your employer has violated New Jersey labor law, you may file a wage complaint by [following the guidelines here](#).

Learn more about the illegal practice of employee misclassification [here](#), and for more information about worker benefits and protections, visit [myworkrights.nj.gov](#).

Businesses can learn about legal requirements and services provided to them at: [nj.gov/labor](#).

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